

FILED

## UNITED STATES DISTRICT COURT

AUG 24 2018

for the

Southern District of Texas

David J. Bradley, Clerk of Court

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

Galaxy Cellular Phone  
Model S6 Edge  
IMEI: 359715061315024

Case No. B-18-771-MJ

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

A cellular phone in the personal property of Carlos Alberto LEYVA-RODRIGUEZ at the United States Border Patrol Station, 940 North FM 511, Olmito, TX 78575.

located in the Southern District of Texas, there is now concealed (identify the person or describe the property to be seized):

The cellular phone is described as Galaxy Cellular Phone, Model S6 Edge, IMEI: 359715061315024

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☐ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section  
8 U.S.C. § 1324

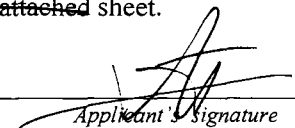
Offense Description  
Transporting aliens within the United States

The application is based on these facts:

See attached Affidavit

☒ Continued on the attached sheet.

☐ Delayed notice of        days (give exact ending date if more than 30 days:       ) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


  
Applicant's signature

Jose Mares, Border Patrol Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 08/24/2018

  
Judge's signature

City and state: Brownsville, Texas

U.S. Magistrate Judge Ronald G. Morgan

Printed name and title

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

United States District Court  
Southern District of Texas  
**FILED**

AUG 24 2018

In the Matter of the Search of a  
**Galaxy Cellular Phone**  
**Model S6 Edge**  
**IMEI: 359715061315024**

§

David J. Bradley, Clerk of Court

Currently Located at the  
**United States Border Patrol**  
**Brownsville Border Patrol Station**  
**940 N. FM 511**  
**Olmito, TX 78575**

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~~Criminal~~ No. *B-18-771-MJ*

**AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A**  
**WARRANT TO SEARCH AND SEIZE**

I, Jose Mares, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application under Fed. R. Crim. P. 41 for a warrant to search a Galaxy Cellular Phone, Model S6 Edge, IMEI: 359715061315024 (referred to as the "Device" hereinafter). The Device is currently stored, in law-enforcement possession, at the United States (US) Border Patrol (BP) Brownsville Station, 940 N FM 511, Olmito, Texas 78575.

2. In my training and experience, I know that the Device has been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the Device first came into the possession of agents.

3. The Device is currently in the lawful possession of BP as a result of a seizure incident to arrest. I seek this warrant to be certain that a search of the Device will comply with the Fourth Amendment and other applicable laws.

4. I am an Agent with BP assigned to the Rio Grande Valley Border Patrol Sector Field Intelligence Team East (FIT East) in Olmito, Texas. I have served as a BP Agent since March 2007 and have been assigned to the FIT since December 2013. I am a law enforcement officer of the U.S., within the meaning of 18 U.S.C. § 2510(7), who is empowered to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516. I am

classified, trained, and employed as a federal law enforcement officer with statutory arrest authority charged with conducting criminal investigations of alleged violations of federal criminal statutes.

5. During my career, I have been a part of numerous arrests linked to harboring and transporting of undocumented aliens. Through these arrests, along with my training and experience and conversations with other agents and law-enforcement personnel, I have become familiar with the methods used by human smugglers to smuggle and safeguard undocumented aliens and to thwart or evade investigations of their trafficking organizations. One of the tactics frequently used by these organizations is the consistent use of cellular telephones and text messages along with other applications with text and photo messaging. I am aware that members of these organizations often store co-conspirators' telephone numbers in the telephone memory and communicate using code names through cellular telephones and their radio transmitters to facilitate transactions and to conceal their identities.

6. This affidavit is being submitted for the limited purpose of establishing probable cause to secure a search warrant for the Device. As such, not all facts known to me or other agents concerning this investigation have been included. This affidavit was approved for filing by an Assistant U.S. Attorney.

#### **PROBABLE CAUSE**

7. On August 13, 2018, FIT East Agents along with Cameron County Constables Pct. 2 detained Carlos Alberto Leyva-Rodriguez in Brownsville, Texas. Cameron County Constables Pct. 2 took Leyva-Rodriguez into custody for two (2) prior outstanding warrants from an incident occurring on May 10, 2016. Leyva-Rodriguez had in his possession a cellular phone, specifically, a Galaxy Cellular Phone, Model S6 Edge, with IMEI: 359715061315024. The cellular phone was recovered by Cameron County Constables Pct. 2 and turned over to FIT East Agents for seizure. FIT East Agents confirmed the cellular phone number as (██████████) 5. This number has been linked to alien smuggling incidents from February 2018.

8. Two years ago, on May 10, 2016, FIT East apprehended 7 illegal aliens at a residence in Brownsville, Texas. One of the illegal aliens apprehended, identified the stash house caretaker as Carlos Leyva. Through database research, agents were able to identify

Carlos Leyva as Carlos Alberto Leyva-Rodriguez. In this incident, Leyva-Rodriguez was able evade arrest after a brief vehicle pursuit. Therefore, a warrant for Evading Arrest or Detention was obtained by Cameron County Sheriff's Office for Leyva-Rodriguez. It is this warrant that was executed on August 13, 2018.

9. Additional research of the phone number [REDACTED], which was in the possession of Leyva-Rodriguez, reveals it is linked to the following recent alien smuggling cases.

10. On February 2, 2018, Brownsville Border Patrol Agents arrested several subjects for their involvement in a criminal alien smuggling event where five illegal aliens were arrested. Subsequently, one of the subjects was debriefed by Brownsville Border Patrol Intelligence Agents. The subject identified contacts on her phone as individuals involved in alien smuggling activities to include; foot guides, coordinators and load drivers. One of the phone numbers identified was [REDACTED]. The subject advised the number belonged to a subject working for the "Fercho" ASO as a load driver residing in Brownsville, Texas.

11. On March 4, 2018, Brownsville Border Patrol Agents apprehended an individual who was guiding illegal aliens. The subject had in his possession a cellular phone. A search of the phone revealed calls to several numbers on the date of apprehension. One of the calls was to [REDACTED]. The number was saved under contacts as "Nono." Subscriber information revealed it to be subscribed to Sergio Soto with an address of [REDACTED].

12. On March 18, 2018, agents interviewed an illegal alien apprehended at the Falfurrias Border Patrol Checkpoint located in Falfurrias, Texas. The subject advised he was provided several phone numbers to contact to aid him during his travel into the United States. One of the numbers provided was [REDACTED] which he had saved as the contact "Nalgas."

13. On May 28, 2018, Brownsville Broder Patrol Agents were working narcotics activity between the Gateway Port of Entry and the Amigo Land area in Brownsville Texas. Subsequently, agents arrested a male subject, who admitted to being paid to drop off a vehicle that was to be utilized as a load vehicle for narcotics. As this transpired, agents observed six subjects carrying five bundles of suspected narcotics returning to Mexico, south of the vehicle's location. A physical extraction of the subject's phone, displayed an outgoing call on the day of the event to phone number [REDACTED]. Further research revealed the

subscriber of the phone as Sergio Soto with an address of [REDACTED] Texas.

14. On July 23, 2018, a subject was arrested by Fort Brown Border Patrol Agents for being in the United States illegally. On the following date, subject was interviewed by Field Intelligence Agents East (FIT East) at the Brownsville Border Patrol Station. During the interview subject identified Leyva-Rodriguez as an illegal alien smuggler working for the "Fercho" alien smuggling organization (ASO). The interviewed subject stated telephone number [REDACTED] was the current cellular number for Leyva-Rodriguez.

15. The affiant asserts that there is probable cause to believe that the Device, which was recovered from Carlos Alberto Leyva-Rodriguez, has evidence involving alien smuggling. Additionally, it is known that members of these organizations often store co-conspirators' telephone numbers in the telephone memory and communicate using code names through cellular telephones and their radio transmitters to facilitate transactions.

#### **ELECTRONIC DEVICES AND STORAGE**

16. As described herein and in Attachment B, this application seeks permission to search and seize things that the Device might contain, in whatever form they are stored. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Even when a user deletes information from a device, it can sometimes be recovered with forensics tools. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the Device. This information can sometimes be recovered with forensics tools.

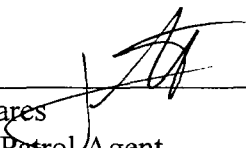
17. Searching for the evidence described in Attachment B may require a range of data-analysis techniques. In some cases, agents and computer analysts may be able to conduct carefully-targeted searches that can locate evidence without requiring a time-consuming manual search through unrelated materials that may be commingled with criminal evidence. In other cases, however, such techniques may not yield the evidence described in the warrant. Criminals can mislabel or hide information, encode communications to avoid using key words, attempt to delete information to evade detection, or take other steps designed to frustrate law enforcement searches for information. These steps may require agents and law enforcement or other analysts with appropriate expertise to conduct more extensive searches,

such as scanning storage areas unrelated to things described in Attachment B, or perusing all stored information briefly to determine whether it falls within the scope of the warrant. In light of these difficulties, BP Agents intend to use whatever data-analysis techniques appear necessary to locate and retrieve the evidence described in Attachment B.

**CONCLUSION**

18. I submit that this affidavit supports probable cause for a warrant to search the device and seize the items described in Attachment B.

Respectfully submitted,

  
\_\_\_\_\_  
Jose Mares  
Border Patrol Agent  
United States Border Patrol

Subscribed and sworn to before me

on Aug 24, 2018:

  
\_\_\_\_\_  
HON. RONALD G. MORGAN  
UNITED STATES MAGISTRATE JUDGE

**ATTACHMENT B**

1. All records and information, contained in a Galaxy Cellular Phone, Model S6 Edge, IMEI: 359715061315024 that involve Carlos Alberto Leyva-Rodriguez and relate to violations of 8 U.S.C. §§ 1324 (transporting aliens within the US):

- a. any information related to alien smuggling (including saved contacts, phone logs, text messages, voice mails, videos, photos, or any other saved records); and
- b. evidence of user attribution showing who used or owned the Device at the time the things described in this warrant and attachment were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

2. As used above, the terms “records” and “information” include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored (including, for example: call logs, contact lists, voicemails, and text messages), including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.